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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,269	08/31/2006	Holger Ceskutti	10191/4078	2994
26646 7590 07/24/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
STEVENS, THOMAS H				
ART UNIT		PAPER NUMBER		
2121				
MAIL DATE		DELIVERY MODE		
07/24/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/554,269

**Applicant(s)**

CESKUTTI, HOLGER

**Examiner**

THOMAS H. STEVENS

**Art Unit**

2121

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-14, 16 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-14, 16 and 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. Claims 10-14, 16, 19-26 were examined.
2. Claims 1-9, 15, 17-18 were cancelled.

***Section I: Final Rejection***

3. Claims 10-14 and 16 are rejected under 35 U.S.C. 103(a) as being anticipated by Kawan (US Patent 6,840,446; hereafter Kawan) in view of Lewis et al (US Patent 7,000,115; hereafter Lewis). Lewis discloses a smart chip protection system (abstract).

While Lewis teaches most of the limitations as set forth in claim 10 for example, if fails to teach a transport controller based software to which Kawan teaches. Both Lewis and Kawan teach smart chip technology.

Thus at the time of invention it would have been obvious to one of ordinary skill in the art to modify the smart chip protection system of Lewis by the read card controller of Kawan since Kawan teaches a method to integrate the multiple read/write components to allow such functions as for example bank and medical transactions to be performed utilizing a single multi-memory card (Kawan: column 1, lines 64-67).

**Per claims 10-14, 16, 19-26 Kawan teaches**

transport controller software (column 4, lines 59)

**Per claims 10-14, 16, 19-26 Lewis teaches**

Claim 10. A device for programming a controller, (control program, column 8, line 13) comprising: a portable, copy-protected plug-in memory unit (example of smart card technology, column 2, lines 30-35) for storing software, wherein the copy-protected plug-in memory unit (example of smart card technology, column 2, lines 30-35) is configured to transport controller software (software interaction with smart chip, column 5, lines 48-51) in an encrypted (column 4, lines 9-13) form from a hardware device (e.g., smart chip, column 22, line 31) to the controller (column 22, line 29).

Claim 11. The device according to claim 10, wherein the copy-protected plug-in memory unit (example of smart card technology, column 2, lines 30-35) includes at least one interface for receiving software from the hardware device and for transferring software (software interaction with smart chip, column 22, lines 15-35) to the controller (control program, column 8, line 13).

Claim 12. The device according to claim 10, wherein the copy-protected plug-in memory unit (example of smart card technology , column 2, lines 30-35)includes: an interface, manipulation-protected hardware, a cryptographic unit, (column 4, lines 9-13) at least one processor having logic (digital data is a bi-product of the digital logic, column 2, lines 58-62) and interface drivers, and a memory containing encrypted (column 4, lines 9-13)software, which includes controller software, programming software, (control program, column 8, line 13) and an encryption(column 4, lines 9-13).

Claim 13. The device according to claim 10, wherein the device is used for programming a controller(control program, column 8, line 13) of a motor vehicle (column 22, line17).

Claim 14. A method for programming a controller, comprising: transferring software from a hardware device to a copy-protected plug-in memory unit (example of smart card technology , column 2, lines 30-35)storing the software in an encrypted form in the copy-protected plug-in memory unit(example of smart card technology , column 2, lines 30-35); and transferring the software stored in the copy-protected plug-in memory unit (example of smart card technology , column 2, lines 30-35)to the controller.

Claim 16. The method according to claim 14, wherein the method is for programming a controller of a motor vehicle (control program, column 8, line 13).

Claim 19. The method according to claim 14, wherein the software includes programming software (e.g., control program, column 8, line 13).

Claim 20. The method according to claim 14, wherein the software includes an encryption (column 4, lines 9-13).

Claim 21. The method according to claim 14, wherein the software includes programming software, (e.g., control program, column 8, line 13) and the software includes an encryption(column 4, lines 9-13).

Claim 22. The method according to claim 14, wherein the software includes programming software, (control program, column 8, line 13) wherein the software includes an encryption, (column 4, lines 9-13) and wherein the method is for programming a controller(control program, column 8, line 13) of a motor vehicle(column 22, line17).

Claim 23. The method according to claim 14, wherein the copy-protected plug-in memory unit includes at least one interface for receiving software from the hardware device and for transferring software to the controller, manipulation-protected hardware, a cryptographic unit, (column 4, lines 9-13) at least one processor having logic and interface drivers, and a memory containing encrypted software, which includes controller software, programming software, (control program, column 8, line 13) and an encryption(column 4, lines 9-13).

Claim 24. The device according to claim 23, wherein the method is for programming a controller (e.g., control program, column 8, line 13) of a motor vehicle (column 22, line 17).

Claim 25. The device according to claim 10, wherein the copy-protected plug-in memory unit includes at least one interface for receiving software from the hardware device and for transferring software to the controller, manipulation-protected hardware, a cryptographic unit, (column 4, lines 9-13) at least one processor having logic and interface drivers, and a memory containing encrypted software, which includes controller software, programming software, (control program, column 8, line 13) and an encryption (column 4, lines 9-13).

Claim 26. The device according to claim 25, wherein the device is used for programming a controller of a motor vehicle (column 22, line 17).

## ***Section II: Response to Arguments***

### **102**

4. Withdrawn. However, the art by Lewis does teach smart card technology to which anyone of ordinary skill would know the particulars of smart cards are coded/cryptic copy protected software/hardware microchips e.g., credit card information designed for specific users thus would be. Furthermore, the "plug in memory" could be

interpreted as the chip on the smart card reading a specific reader e.g., merchant's computer to read a user's credit card information to perform a transaction. The 102 rejection by Lewis is withdrawn but is maintained with the prior art by Kawan.

### ***Conclusion***

5. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715.



If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Albert Decady (571-272-3819). The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).

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